

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARYLAND CASUALTY COMPANY,

No. C-11-05640 YGR (DMR)

Plaintiff(s),

**AMENDED NOTICE OF REFERENCE  
AND ORDER RE DISCOVERY  
PROCEDURES**

v.

AVALON MANAGEMENT LLC,

Defendant(s).

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter has been referred to Magistrate Judge Donna M. Ryu for resolution of all discovery disputes. The court is in receipt of the January 24, 2013 joint letter regarding the dispute between Defendant Tiburon Hospitality (“Tiburon”) and Intervenor Sequoia Insurance Company (“Sequoia”) and Avalon Management, LLC (“Avalon”) and Mark Grotewohl, in which Avalon/Grotewohl seek a protective order to prohibit the law firm Burnham Brown from deposing them. [Docket No. 80.] The court has determined that it would benefit from further briefing and a factual record regarding the issues raised in the joint letter. Accordingly, by no later than February 8, 2013, Avalon/Grotewohl shall file an opening brief and any supporting declaration(s) specifically addressing the existence of an attorney-client relationship between Avalon/Grotewohl and Burnham Brown, and Avalon/Grotewohl’s entitlement to a protective order on the grounds of the alleged

1 conflict. Avalon/Grotewohl's opening brief shall not exceed 12 pages, double-spaced (exclusive of  
2 evidence). By no later than February 14, 2014, Tiburon and Sequoia shall file an opposition that  
3 does not exceed 12 pages, double-spaced (exclusive of evidence). Any reply by Avalon/Grotewohl  
4 shall be filed by February 19, 2013 and shall not exceed five pages, double-spaced. The court will  
5 hold a hearing on this matter on **February 28, 2013 at 11:00 a.m.** at the U.S. District Court, 1301  
6 Clay Street, Oakland, California 94612. For courtroom number and floor information, please check  
7 the Court's on-line calendar at <http://www.cand.uscourts.gov> (click "Calendars - Judges' Weekly  
8 Calendars" link, then select Judge Ryu's calendar) or call Judge Ryu's Courtroom Deputy, Ivy  
9 Garcia, at (510) 637-3639, one week prior to the scheduled hearing.

10 Parties shall comply with the procedures in this order, the Federal Rules of Civil Procedure,  
11 and the Northern District of California's Local Rules, General Orders, and Standing Orders. Local  
12 rules, general orders, standing orders, and instructions for using the Court's Electronic Case Filing  
13 system are available at <http://www.cand.uscourts.gov>. Failure to comply with any of the rules or  
14 orders may be a ground for sanctions.

### 15 RESOLUTION OF DISCOVERY DISPUTES

16 In order to respond to discovery disputes in a flexible, cost-effective and efficient manner,  
17 the court uses the following procedure. The parties shall not file formal discovery motions. Instead,  
18 as required by the federal and local rules, the parties shall first meet and confer to try to resolve their  
19 disagreements. The meet and confer session must be *in person or by telephone*, and may not be  
20 conducted by letter, e-mail, or fax. If disagreements remain, the parties shall file a joint letter no  
21 later than five business days after the meet and confer session, unless otherwise directed by the  
22 court. **Lead trial counsel for both parties must sign the letter**, which shall include an attestation  
23 that the parties met and conferred in person or by telephone regarding all issues prior to filing the  
24 letter. Going issue-by-issue, the joint letter shall describe each unresolved issue, summarize each  
25 party's position with appropriate legal authority; and provide each party's final proposed  
26 compromise before moving to the next issue. The joint letter shall not exceed ten pages without  
27 leave of court. **Parties are expected to plan for and cooperate in preparing the joint letter so**  
28 **that each side has adequate time to address the arguments.** In the rare instance that a joint letter

is not possible, each side may submit a letter not to exceed four pages, which shall include an explanation of why a joint letter was not possible. The parties shall submit one exhibit to the letter that only sets forth each disputed discovery request in full, followed immediately by the objections and/or responses thereto. No other information shall be included in any such exhibit. No other exhibits shall be submitted without prior approval by the court. The court will review the submission(s) and determine whether formal briefing or proceedings are necessary. **Discovery letter briefs must be e-filed under the Civil Events category of Motions and Related Filings > Motions - General > "Discovery Letter Brief".**

In the event that a discovery hearing is ordered, the court has found that it is often efficient and beneficial for counsel to appear *in person*. This provides the opportunity, where appropriate, to engage counsel in resolving aspects of the discovery dispute while remaining available to rule on any disputes that counsel are not able to resolve. For this reason, the court expects counsel to appear in person. Permission for a party to attend by telephone may be granted, in the court's discretion, upon written request made at least one week in advance of the hearing if the court determines that good cause exists to excuse personal attendance, and that personal attendance is not needed in order to have an effective discovery hearing. The facts establishing good cause must be set forth in the request.

In emergencies during discovery events (such as depositions), any party may, after exhausting good faith attempts to resolve disputed issues, seek judicial intervention pursuant to Civil L.R. 37-1(b) by contacting the court through the courtroom deputy. If the court is unavailable, the discovery event shall proceed with objections noted for the record.

#### CHAMBERS COPIES AND PROPOSED ORDERS

Pursuant to Civil L.R. 5-1(e)(7) and 5-2(b), parties must lodge an extra paper copy of certain filings and mark it as a copy for "Chambers." Please three-hole punch the chambers copy and submit it to the Oakland Clerk's Office.

Any stipulation or proposed order submitted by an e-filing party shall be submitted by email to [dmrpo@cand.uscourts.gov](mailto:dmrpo@cand.uscourts.gov) as a word processing attachment on the same day the document is e-

1 filed. This address should only be used for this stated purpose unless otherwise directed by the  
2 court.

### 3 **PRIVILEGE LOGS**

4 If a party withholds information that is responsive to a discovery request by claiming that it  
5 is privileged or otherwise protected from discovery, that party shall *promptly* prepare and provide a  
6 privilege log that is sufficiently detailed and informative for the opposing party to assess whether a  
7 document's designation as privileged is justified. *See* Fed.R.Civ.P. 26(b)(5). The privilege log shall  
8 set forth the privilege relied upon and specify separately for each document or for each category of  
9 similarly situated documents:

10 (a) the title and description of the document, including number of pages or

11 Bates-number range;

12 (b) the subject matter addressed in the document;

13 (c) the identity and position of its author(s);

14 (d) the identity and position of all addressees and recipients;

15 (e) the date the document was prepared and, if different, the date(s) on which it was  
16 sent to or shared with persons other than its author(s); and

17 (f) the specific basis for the claim that the document is privileged or protected.

18 Communications involving trial counsel that post-date the filing of the complaint need not be  
19 placed on a privilege log. Failure to furnish this information promptly may be deemed a waiver of  
20 the privilege or protection.

21  
22 IT IS SO ORDERED.

23  
24 Dated: February 12, 2013



25 DONNA M. RYU  
26 United States Magistrate Judge  
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